



How to File a Motion

(Superior Court of New Jersey - Law Division – Civil Part)

Who Should Use This Packet?

You should use this packet if you want to ask the judge for a specific ruling or order during the course of your lawsuit. Any party to a case may bring a motion. The person bringing the motion is called the moving party. Examples of motions include:

- Motion to dismiss the complaint
- Motion for entry of default
- Motion to vacate a default judgment
- Motion for summary judgment
- Motion to strike an answer for failure to answer interrogatories
- Motion to compel discovery.

Caution: Some Civil Part cases are very complex and you should consider getting a lawyer. See information on page 2 titled “TRY TO GET A LAWYER.”

Note: These materials have been prepared by the New Jersey Administrative Office of the Courts for use by self-represented litigants. The guides, instructions, and forms will be periodically updated as necessary to reflect current New Jersey statutes and court rules. The most recent version of the forms will be available at the county courthouse or on the Judiciary’s Internet site njcourts.gov. However, you are ultimately responsible for the content of your court papers. With limited exceptions, any paper filed with the court can be looked at by the public.

Completed forms are to be submitted to the county where you are filing your case. A list of Superior Court Offices is provided at the customer counter or at njcourts.gov.

Things to Think About Before You Represent Yourself in Court

Try to Get a Lawyer

The court system can be confusing and it is a good idea to get a lawyer if you can. The law, the proofs necessary to present your case, and the procedural rules governing cases in the Law Division, Civil Part are complex. Since valuable claims or potentially heavy judgments may be at stake, most litigants appearing in the Law Division, Civil Part have a lawyer. If you are being sued please contact your insurance company to see if it might provide a lawyer for you. Most likely your opponent will be represented by a lawyer. It is recommended that you make every effort to obtain the assistance of a lawyer. If you cannot afford a lawyer, you may contact the legal services program in your county to see if you qualify for free legal services. Their telephone number can be found online or in your local yellow pages under “Legal Aid” or “[Legal Services](#).”

If you do not qualify for free legal services and need help in locating an attorney, you can contact the bar association in your county. That number can also be found in your local yellow pages. Most county bar associations have a Lawyer Referral Service. The County Bar Lawyer Referral Service can supply you with the names of attorneys in your area willing to handle your particular type of case and will sometimes consult with you at a reduced fee.

There are also a variety of organizations of minority lawyers throughout New Jersey, as well as organizations of lawyers who handle specialized types of cases. Ask your county court staff for a list of lawyer referral services that include these organizations.

If you decide to proceed without an attorney, these materials explain the procedures that must be followed to have your papers properly filed and considered by the court. These materials do not provide information on the law governing your claims or defenses; information on how to conduct pretrial discovery; information on alternative dispute resolution procedures, such as arbitration or mediation, that may be available or required in your case; information on the kinds of evidence you need to prove your claims or defenses at trial; or information on other procedural and evidentiary rules governing civil lawsuits.

What You Should Expect If You Represent Yourself

While you have the right to represent yourself in court, you should not expect special treatment, help, or attention from the court. The following is a list of some things the court staff can and cannot do for you. Please read it carefully before asking the court staff for help.

- We *can* explain and answer questions about how the court works.
- We *can* tell you what the requirements are to have your case considered by the court.
- We *can* give you some information from your case file.
- We *can* provide you with samples of court forms that are available.
- We *can* provide you with guidance on how to fill out forms.
- We *can* usually answer questions about court deadlines.
- We *cannot* give you legal advice. Only your lawyer can give you legal advice.
- We *cannot* tell you whether or not you should bring your case to court.
- We *cannot* give you an opinion about what will happen if you bring your case to court.
- We *cannot* recommend a lawyer, but we can provide you with the telephone number of a local lawyer referral service.
- We *cannot* talk to the judge for you about what will happen in your case.
- We *cannot* let you talk to the judge outside of court.
- We *cannot* change an order issued by a judge.

Keep Copies of All Papers

Make and keep copies of all completed forms and documents related to your case.

Definitions of Words Used in This Packet

Adversary – Your *adversary* in a lawsuit is the person or persons whose position is opposite to you. In a case in which there is only a plaintiff and a defendant and you are the plaintiff, your adversary is the defendant. Likewise, if you are the defendant, your adversary is the plaintiff. In this packet, service on your adversary means service on the attorney(s) representing your adversary or adversaries and/or on any party(ies) not represented by counsel.

Brief - A *brief* is a written argument submitted to the court in which you present the facts and the history of your case and the legal argument supporting the request you have made to the court in your motion.

Calendar motion - A *calendar motion* asks the court for a ruling related to the scheduling or timing of your case, such as a motion for more time to file papers. Before filing a calendar motion, the moving party must try to resolve the matter with the other party(ies) in the case.

Certification - A *certification* is a written statement you make when you file your papers with the court in which you state that all the information contained in the papers is true to the best of your knowledge.

Discovery End Date – The *discovery end date* is the date assigned by the court by which discovery in your case must be completed.

Discovery Motion - A *discovery motion* asks the court for a ruling on some phase of the discovery process such as a motion for more specific answers to interrogatories, a motion to compel depositions. Before filing a discovery motion, the moving party must try to resolve the matter with the other party in the case.

Docket Number - The *docket number* is the number the court assigns to your case so that it may be identified and located easily. Once you have a docket number, you must include it on all your communications with the court.

Motion - A *motion* is an application to the court for a specific order or ruling to be made in favor of the person making the motion (the movant).

Motion Day - Courts hear motions on specified days (usually Fridays) on the court calendar called *motion days*. A schedule of the court's motion days can be obtained from the court staff or on Internet at the Judiciary's website at njcourts.gov.

Movant or moving party - The *movant or moving party* is the person who is bringing the motion.

Notice of Motion - A *notice of motion* is the form used to inform the court and all opposing parties that the moving party is seeking a specific ruling or order from the court.

Oral argument - *Oral argument* refers to the appearance in court by the parties to present their positions to the judge in person. Either side may request oral argument, but the decision on whether there will be oral argument is up to the judge. If oral argument is not requested by either of the parties or the judge, the motion will be decided "on the papers."

Pro Se - *Pro se* means by oneself. A *pro se* litigant represents him or herself in court without the aid of counsel.

Proof of Mailing - *Proof of mailing* is the form in which you provide the dates and the method you used to give the other parties copies of the papers that you filed in court.

Proposed Form of Order - A proposed order is a form that the judge can use to either grant or deny the relief sought in the motion. Every motion must be accompanied by a *proposed form of order*.

Return date - The *return date* is the date on which the court will consider the motion. If you request oral argument, you must appear before the judge. If no oral argument is requested, the matter will be decided "on the papers." That is, the judge will decide the motion on what has been submitted in the moving papers and in the opposition papers, without having anyone appear in court.

Summary judgment - A motion for *summary judgment* asks the court to resolve the case in the moving party's favor without a trial because there is no dispute over the facts of the case and the law supports the moving party's position

The numbered steps listed below tell you what forms you will need to fill out and what to do with them. Each form should be typed or printed clearly on 8 ½ “x 11” white paper only. Forms may not be filed on a different size or color paper.

Steps for Filing a Motion

Note: Before you file a calendar or discovery motion, you must contact your adversary’s attorney or the *pro se* party to attempt to resolve the matter. The Certification Regarding Attempts to Resolve tells the court that you have personally conferred with the attorney or *pro se* party and were unsuccessful in resolving the issue **OR** that you made a good faith but unsuccessful effort to contact your adversary and detail the steps you took to establish contact **OR** that you have notified your adversary in writing that unless the discovery requests have been complied with you will file a motion.

STEP 1 - Complete the *Notice Of Motion* and the *Certification Regarding Attempts To Resolve* (Form A).

In the *Notice of Motion*, you inform the court and all parties that you have asked for a specific ruling or order and you specify the type of ruling you want. Motions are heard in court on specified days. You should obtain the motion schedule either from the clerk’s office or on line from the judiciary website at: njcourts.gov.

You should pick a motion day at least 3 weeks from the date you mail your motion papers in order to give your adversary the 16 days before the return date as required by the court rules. **Note: If you are filing a motion for summary judgment, you must file it no later than 28 days before the time specified for the return date.**

You must indicate whether you want to waive oral argument and let the judge decide the motion on the papers or not. You can ask the court for oral argument only if your adversary opposes the motion or you can ask for oral argument on your own. If you request oral argument, you must tell the court why you think it is necessary.

Note: The judge makes the decision on whether there should be oral argument. The judge may request it even if neither party asked for it. Similarly, the judge may deny the request for oral argument.

If you have received notification of the date by which discovery should be completed in your case, you must indicate that date in the space provided. If a date has not been assigned, you must check the statement that indicates that no date has been assigned.

You must also indicate on the Notice of Motion any dates that have been set by the court for conferences, arbitration, or trial. For discovery and calendar motions, you must complete the Certification Regarding Attempts to Resolve to inform the court what efforts you have made to contact your adversary to resolve the issue in the two week period immediately before filing the motion.

NOTE: If this is the first paper you are filing in this case, (i.e., you have not already filed an answer to the complaint), you must certify that you have redacted (blacked out) any personal identifiers (Social Security numbers, driver’s license numbers, vehicle plate numbers, insurance policy numbers, active financial account numbers, or active credit card numbers) from any paper filed with the court, unless any such personal identifier is required to be included by statute, rule, administrative directive or court order. If an active financial account is the subject of your case and cannot otherwise be identified, you may use the last four digits of the account to identify it.

NOTE: Do **not** redact (black out) this information in the original papers that you are keeping (such as a police accident report) since you may have to show them to the court at some point.

STEP 2 - Complete the *Certification in Support of the Motion* and the *Certification of Service* (Form B).

The *Certification in Support of the Motion* tells the court the reasons why you want the ruling you have requested and the reasons why the court should grant your request. You must also complete the *Certification of Service* which tells the court the date on which you mailed the copies of the documents to your adversary.

STEP 3 - Complete the Proposed Form of Order (Form C).

Fill in the information up to the line for the date of the order. Leave that and the rest of the form blank. The terms of the Order will be completed by the judge when the motion is decided.

If you are filing a motion for summary judgment, you must also include a legal brief in which you state the facts of your case and the law that supports your position.

STEP 4 - Attach the filing fee.

The fee for filing a motion in Superior Court is \$50.00. Write a check in that amount payable to the *Treasurer, State of New Jersey*. **Note: If this motion is the first paper you are filing with the court in this case (that is, you have not previously answered or otherwise responded to the complaint), the filing fee is \$175.00.**

STEP 5 - Check your completed forms.

Check your forms to make sure that they are complete and that you have signed them in the appropriate places. Make at least four copies of the completed forms.

Checklist: You must have the following items:

_____ The original *Notice of Motion, Certifications*, and proposed form of *Order* (Forms A, B and C). If you wish the court to return to you a copy marked “filed,” you must include a copy and a stamped, self-addressed envelope. You will need a brief in support of a motion for summary judgment.

_____ A money order or check made out to *Treasurer, State of New Jersey* in the amount of \$50.00 (or \$175.00 if this is the first paper filed)

_____ A stamped self-addressed envelope, if you want a copy stamped “filed.”

_____ One copy of the *Notice of Motion, Certification*, and proposed form of *Order* (and brief, if applicable) to serve on your adversary’s attorney or the adversary, if *pro se*.

STEP 6 - Mail the *Notice of Motion, Certification* and Proposed Form of *Order* to your adversary and any other party to the lawsuit.

You must serve your adversary no later than 16 days before the specified return date on your notice of motion. [If you are filing a motion for summary judgment, you must file it not later than 28 days before the time specified for the return date]. While the court rules do not require you to use certified mail, it is suggested that you send your motion and supporting papers by regular and certified mail, return receipt requested. You will then have the green card when it is returned to you as proof of service.

STEP 7 - Mail or deliver the forms to the court.

You may deliver your papers to the court in person or you may mail them. The court address is available on line at njcourts.gov. If you mail the papers, we recommend that you use certified mail, return receipt requested.

Mail or deliver to the court the original *Notice of Motion, Certification* and proposed form of *Order*. If you wish the court to send you back a copy of these papers stamped “filed,” you must include an additional copy and a self-addressed, stamped envelope.

Keep copies of all papers you provide to the court or any other party. Make and keep for yourself copies of all completed forms and any canceled checks, money orders, receipts, bills, contract estimates, letters, leases, photographs and other important papers that relate to your case.

Form A

Name _____
NJ Attorney ID Number (if applicable) _____
Address _____
Telephone Number _____

Superior Court of New Jersey
Law Division
_____ County
Docket Number _____

Plaintiff(s)
v.

Defendant(s)

Civil Action
Notice of Motion

To:

TAKE NOTICE that the undersigned will apply to the above named Court located at _____, on _____, at 9:00 a.m. for an **Order** to (describe relief requested):

I will rely on the attached certification which contains the grounds for the relief sought.

Pursuant to R. 1:6-2(d), the undersigned: (check one)

- Waives oral argument and consents to disposition on the papers.
- Requests oral argument if this matter is contested.
- Requests oral argument for the following reasons:

A proposed form of Order is attached.

Court Dates

No pre-trial conference, arbitration proceeding, calendar call or trial date has been set except as follows: (If any dates have been scheduled, note them here; otherwise state "none")

Discovery End Date

- Discovery in this matter is scheduled to be completed on _____.
- A discovery end date has not been assigned to this matter.

Form A
Certification Regarding Attempts to Resolve
(Required for discovery and calendar motions – check one)

- I certify that I have personally discussed this matter with the attorney for the opposing party, or the opposing party if appearing *pro se*, in order to resolve the issues raised by this motion. This effort was not successful.
- I certify that I have made a good faith effort to personally discuss this matter with the attorney for the opposing party, or with the party if appearing *pro se*, in order to resolve the issues raised by this motion. The effort I made included the following action: (specify attempts to confer):

- I certify that I have advised the attorney for the opposing party, or the party if appearing *pro se*, by letter that if I will make this motion if she/he continues to fail to comply with my discovery request.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Date _____

Signature

Print Name

If this is the first paper you are filing in this case, you must sign the following certification.
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-77(b)*.

Date _____

Signature

Print Name

Form B

Name _____
NJ Attorney ID Number (if applicable) _____
Address _____
Telephone Number _____

Superior Court of New Jersey
Law Division
_____ County
Docket Number _____

Plaintiff(s)
v.

Defendant(s)

Civil Action

Certification in Support of Motion

I, _____, am the (check one) plaintiff defendant in the above-captioned matter. I make this certification in support of my motion to: (state what you want the court to do)

This motion should be granted because: (State the basis for your motion and why it should be granted. Use extra paper if necessary.)

I certify that the above statements made by me are true and that if any of the statements are willfully false, I am subject to punishment.

Date _____

Signature

Print Name

Form B

Certification of Service

I certify that on _____, I sent a copy of the Notice of Motion, Certification, and proposed form of Order to the following parties by: (Check which mailing method you chose. If you sent it by both regular and certified mail, return receipt requested, check both)

regular mail certified mail, return receipt requested

List each party to the lawsuit; use the attorney's name and address if the party is represented by counsel.

Name _____ Name _____

Address _____ Address _____

Attorney for _____ Attorney for _____

Date _____

Signature _____

Print Name _____

Form C

Name _____
NJ Attorney ID Number (if applicable) _____
Address _____
Telephone Number _____

Superior Court of New Jersey
Law Division
_____ County
Docket Number _____

Plaintiff(s)
v.

Defendant(s)

**Civil Action
Order**

This matter having been brought before the Court on Motion of (check one) plaintiff defendant for an **Order** (describe relief requested)

and the Court having considered the matter and for good cause appearing,
It is on this _____ day of _____, 20____, **ORDERED** as follows:

, J.S.C.

- Opposed**
- Unopposed**